

## **Scottish Sea Farms Consultation Response**

*Managing interactions between sea lice from finfish farms and wild salmonids – Proposed new regulatory framework*

### **About**

Scottish Sea Farms (SSF) and its predecessors have been rearing quality farmed salmon for over 50 years, supplying customers in more than 24 countries worldwide and operating to internationally recognised standards. The business takes the welfare of its fish to the highest regard having a dedicated team of qualified veterinary and fish-health professionals. Similarly, the business takes responsibility towards environmental stewardship and managing its impacts, having a specialised team of field and environmental scientists.

### **Introduction**

We acknowledge that as with all activities, negative impacts may arise from our activity - rearing of salmon. However, the scale of such impacts must be balanced with the positive impacts an activity brings, with controls to manage the scale of impacts being proportionate, necessary, and arising from a strong evidence base. SEPA have acknowledged that they do not believe sea lice from farmed fish are responsible for the declines in wild fish seen over decades.

The Controlled Activities Regulations (CAR) used to regulate salmon farms in Scotland are drawn down from the Water Framework Directive (WFD) which applies several precautionary rules to achieve its objectives. The use of these highly precautionary rules has been the topic of vast debate regarding their inability to account for the complexity's different waterbodies face. We feel the implementation of this framework under CAR takes the precautionary nature of WFD even further, unnecessarily restricting and negatively impacting on the sector by placing farmed fish health and welfare needs below a potential impact on possible migrating salmon and limiting growth of the sector due to a potential impact which may arise for a potential migrating salmon.

The introduction of this consultation paper states that the Scottish Regulators' Strategic Code of Practice has been followed to create a transparent, accountable, consistent, and proportionate framework, targeting action based on environmental risk. SEPA also state 'this type of regulatory action has the potential to impose major costs on operators' and 'before we take such action, we must ensure the action is evidence based, proportionate, reasonable and necessary – we need to be confident based on suitable evidence that the activity is contributing to the adverse impact'. We do not see compatibility with either of these statements and the framework that has been presented. Regarding evidence basis, SEPA representatives stated as recently as Monday 4<sup>th</sup> September that they did not have confidence in whether farm derived sea lice have an impact on wild salmon.

We believe this framework is not representative of the existing evidence, is not proportionate, is not validated, and it is most definitely not complete. We believe no framework should be implemented until all details have been completed and further that no regulatory requirements should be implemented for any farm that does not pose an evidenced high risk to wild salmon.

### **Sea trout inclusion and response**

Regarding the inclusion of sea trout in this framework we do not believe that this is appropriate. There is not an evidence basis for the inclusion of sea trout within the framework as highlighted in the consultation paper. We believe any concerns regarding impact on sea trout should be dealt with and evidenced separately to those for wild salmon.

Regarding the extended protection proposed, no information has been provided in relation to population statistics for sea trout, and we question what benefit the extended protection brings if it is not known whether a sea trout population exists or where one does exist what the extent of that population is. It cannot possibly be claimed that this is targeted evidence-based action for SEPA to take without this information.

The lack of information and evidence makes it impossible to predict when screening assessments could occur for sea trout interactions. WSPZs for sea trout cannot be delineated until this evidence exists. Furthermore, there is no clear route to modelling sea trout movements in coastal waters and how this links to their exposure to farm derived sea lice. This is as much a data problem as a modelling problem; no one knows how to draw a plausible fish track and/or account for return to fresh water. It will likely require extensive empirical work to gain any progress on this. It is agreed that the approach taken for Atlantic salmon is likely not suitable for sea trout given their different behaviour in the marine environment. Extreme care will need to be taken to ensure if necessary that a proportionate approach for sea trout is taken given the lack of knowledge, information, and research on populations, rivers and burns which might support sea trout behaviour and movements at sea. We note the work in Norway looking to develop a risk framework for sea trout, if SEPA demonstrate that farmed sea lice have an impact on sea trout we request that they ensure any actions are relevant to local conditions and local behaviour of sea trout populations. Further research into sea trout populations must be conducted before any further controls are implemented.

#### **Proposed timetables**

We believe it is completely inappropriate and unreasonable of the regulator to introduce an incomplete framework, this current approach is contradictory to the principles of better regulation.

Despite the increases applied in the charging scheme which were in part justified based on increasing resource to address workload, we have a clear concern about the volume of commenced but not concluded changes in the regulation of the sector proposed by SEPA. This causes huge levels of uncertainty for our business, heavily impacting investment decisions and our ability to adaptively farm. This framework is not complementary to Scottish Government policy supporting open pen salmon farming.

We will evidence in detail throughout our response why it is impossible for both SEPA to deliver the work and operators to meet the work required in these timeframes, resulting in a moratorium on any development where this framework applies. Please review all responses collectively with this paragraph.

#### **Sea lice management, controls and conditions**

We do not agree with any of the proposals relating to sea lice management, controls, or conditions. This is something that cannot solely be determined by SEPA, we recommend that a technical steering group is established which includes the Fish Health Inspectorate (FHI), the Animal and Plant Health Agency (APHA), the Chief Veterinary Office (CVO) of Scotland's team, fish veterinarians, RSPCA etc., to establish the appropriate mechanism required to manage those sites which are evidenced as posing a high risk to wild salmon whilst considering the health and welfare of the farmed fish and impacts on the environment which may arise from the additional measures which may be required. SEPA are not the competent body regarding what an 'achievable standard of sea lice management' is, it is essential that this work is carried out in collaboration with relevant experts from the above. We will evidence in detail throughout our response why this should occur, please review all responses collectively with this paragraph.

### **Consultation best practice**

'Consultations in the Scottish Government: guidance' states that 'A good consultation should be accessible for people. The consultation should clearly explain what it is seeking people's views on and make sure that people are able to respond'. The UK Government's 'Consultation Principles 2018' state that consultations should be clear and concise, easy to understand and answer, and should be informative giving enough information to ensure those consulted understand the issues and can give informed responses.

This consultation significantly falls short of delivering best consultation practice and on this basis alone should require implementation of this framework to be delayed until the unsatisfactory components have been addressed. There are multiple instances which we will evidence in our response where clarity, explanation and a reasonable level of information is missing to enable fair, informed responses. Please review all responses collectively with this paragraph.

### **Stronger regulatory partnerships**

The contents of this chapter do not demonstrate any instance where regulatory partnerships have become stronger, rather it discusses an intention that regulators work together to complete the yet incomplete framework. We believe stronger regulatory partnerships are desperately needed for this framework and that without collaborative completion of this framework that increased uncertainty will arise with all the negative consequences for all parties which any uncertainty brings.

One example of this is the complete lack of consideration given to the impacts this framework has on farmed fish health and welfare. SEPA have stated that they only regulate the environment, fish health and welfare is regulated by FHI and APHA. The consultation states that the Scottish Government committed to the development of a risk assessment framework. The Animal Health and Welfare (Scotland) Act 2006 requires farmers to safeguard animal health and welfare. Any new regulatory proposal that poses a conflict with established law should be well-thought-out by Scottish Government and their bodies, ensuring that the principles of better regulation, the Regulatory Reform (Scotland) Act (2014) and the regulatory review conducted by Prof. R Griggs are followed to avoid unnecessary conflicts. SEPA have stated that they have not assessed the impacts this framework poses for the health and welfare of farmed fish. This is a significant failure in complying with and delivering better regulation for the fish farm sector. It is not acceptable to dismiss the negative and unnecessary impacts on farmed fish health and welfare which this framework if implemented will result in. It is also unacceptable to progress the implementation of regulation without robustly understanding and assessing the related social and economic impacts which will arise and for which SEPA have specific duties to have regard for. From discussions with SEPA throughout the course of this workstream, we consider that SEPA continue to fail to discharge this duty because of a poor understanding of the sector. The framework should not be implemented until an assessment of the impacts on farm fish health and welfare have been conducted so that they can be incorporated into this 'reasonable' framework. This assessment should be conducted by the technical steering group.

Regarding partnership with Local Authorities, SEPA states that being responsible for managing interactions between sea lice from farmed fish and wild salmon will simplify the regulatory landscape. It is clear no exploration has occurred into how exactly this will be achieved; no detail or explanation has been provided on how this will be addressed. Local Authorities will still need to consider interactions under EIA unless this aspect is screened out on the basis that it is addressed by SEPA, and they will still be responsible for assessing Special Areas of Conservation relevant to wild salmon and freshwater pearl mussels. Despite the claim of simplification, without removal of duplication in

assessment by separate consenting processes the framework adds confusion. We urgently seek a joint meeting with SEPA, Local Authorities and the fish farming sector to address how these other aspects will be dealt with and determine how a smooth transition can occur.

### **Chapter 3 - Risk assessment framework**

- 1. Do you agree with our revisions to the WSPZ? If not, please explain why you disagree and what would be your alternative.*

We do not support further extensions to WSPZs without clear evidence of impacts on wild salmon populations in these areas and evidence that salmon populations are present in rivers.

- 2. Do you have any additional information on, or suggestions how we can identify important sea trout rivers in the West Coast, Western Isles and Northern Isles?*

See paragraph on sea trout.

- 3. Do you have any suggestions to improve our screening models?*

Model validation with marine monitoring data would be beneficial. This could include complete reporting on calibration/validation of physical models with current meter data or drogue pathways but should also include validation of the biological elements. In the medium term, more focussed monitoring of wild salmon movements and their sea lice abundances should be considered to support these model elements.

- 4. Do you have any suggestions on how we could better present the outputs of the models?*

Excepting Appendix 4 of the consultation document, which presents a limited selection of configuration information and outputs, there is no published documentation relating to model configuration, analytical process, and results. We request this information be shared urgently to improve transparency, understanding and ability to respond to outputs. In addition to the overall analysis, this should include a breakdown to selected individual site releases to allow clearer understanding of the methods used, how spread patterns compare with existing models, and the implications for individual site management.

- 5. Do you agree with our proposed approach to developing a risk assessment framework for sea trout? If not, please explain why you disagree and what would be your alternative?*

No, see paragraph on sea trout.

- 6. Do you agree with our proposed risk assessment methodology? If not, please explain why you disagree and what would be your alternative.*

While the basic premise of the modelling described for high-level screening purposes appears sound, and the presentation of WSPZ capacity versus site contribution to sea lice concentration within a table is potentially helpful, we do not agree with the imposition of conditions on sites simply on the basis of relative risk, especially given that no impact of those sites has presently been demonstrated.

The present risk assessment methodology identifies several existing sites that would be considered 'high risk', and SEPA have stated several times that the relatively small number of sites falling into this category means that the framework will have limited impact on sector operations. However, this is not reflective of the potential impacts on farmed fish health & welfare, which may be considerable. The proposal provides no way of knowing where other potential development locations would fall within



the matrix, and what their assessed level of relative risk would be. As a result, the real impact of the framework on operations may be understated. This is particularly important to bear in mind given that relocation has been proposed as a method of dealing with non-compliant or high-risk sites.

*7. Do you agree with the proposed timetable? If not, please explain why you disagree and what would be your alternative.*

We do not agree, see paragraph 'proposed timetables'. The screening model should not be used until virtual post-smolt models and refined model development has been completed as it would create a situation where SEPA can identify an at-risk proposal in need of refined modelling at the end of 2023 but the options for developers to respond to screening and undertake refined modelling would not be available until 2024 or later. Under these conditions our business has no ability or certainty to plan reasonable development outcomes, creating a development that weakens our resilience and security.

#### **Chapter 4 - Pre-Application Process**

*8. Do you agree with the proposed workflow for pre-applications? If not, please explain why you disagree and what would be your alternative.*

For the purposes of regulatory transparency, the pre-application process which SEPA have introduced, and which is referenced in this section is not a mandatory step in the licensing process and consequently it may or may not be followed by any applicant.

We agree that the proposed workflow for the screening stage of pre-application, as described, is consistent with the existing voluntary pre-application process which can be adopted by an applicant.

We agree that should the framework be implemented as proposed that additional information to support an application would be required for applications where the output from the screening stage indicates that the set sea lice exposure threshold may be exceeded.

We do not agree that only a refined model would be capable of providing pertinent information to address concern that the set sea lice exposure threshold may be exceeded. SEPA acknowledges elsewhere and through stakeholder workshops and meetings in respect to this topic that there are a range of measures which can be taken to manage sea lice exposure thresholds.

We do not agree that it is for SEPA to set when a community engagement action occurs and note that the process of streamlining and simplifying the consenting regime for fish farms is a separate Scottish Government workstream which includes sector and SEPA representatives. We recommend that any pre-application process and application process is aligned fully with the outputs and recommendations from the Consenting Task Group as established in August 2022 by Scottish Government.

*9. Do you agree with the proposed timetable? If not, please explain why you disagree and what would be your alternative.*

We do not agree with the proposed timetable, see paragraph 'proposed timetables'.

Operators will not be able to build and demonstrate performance of refined models in the near future. A prerequisite for testing the performance of any refined model, and in identifying the 'best' model, is the availability of suitable validation data. Collection of such data is a slow process, but at present there is no proposed protocol for such validation work (such as a sentinel pen study), or any plan regarding the consenting requirements in order to undertake it. The consultation document notes case-by-case uptake of developers' refined models commencing in 2024, but in reality, it is likely to be

many years before the necessary combination of model development and data collection has been successfully completed for any specific site.

It is unacceptable to expect operators to undertake this sort of work in isolation. A precondition of introducing a framework and thresholds for assessment of sites and associated models should be for SEPA to define and commence work on the necessary studies for validation of the framework/models in collaboration with the regulated sector.

No stage of the workflow should be in action until the full consultation process, including potential adjustments to the screening tool has been concluded.

#### **Chapter 5 - Applications for new or expanding farms**

*10. Do you agree with the way we have used the risk assessment matrix to identify where we will apply permit conditions for reporting and lice limits? If you disagree, please explain how you would apply the matrix and why this would deliver a better outcome.*

See paragraph 'Sea lice management, controls and conditions'.

We disagree that farms with no numeric sea lice limits are required to monitor and report weekly fish numbers and average number of adult female sea lice per fish. The risk assessment proposed demonstrates that most farms do not pose a risk that requires a sea lice limit to be imposed upon them via a licence condition, it is therefore inappropriate and unjustified for these farms to have a permit condition requiring sea lice performance information. From raising this issue separately with SEPA we were advised that the request was to enable access and use of data by SEPA to operate screening models. As the sector complies with the reporting provisions of the Fish Farming Businesses (Reporting) Scotland Order 2020, one aspect of which is the publication of this data on Scotland's Aquaculture website allowing all parties open access to use of this dataset, this requirement is solely another duplication of existing regulation and is unnecessary. Finally, given all the above points this proposal is in direct contradiction with the statutory duty which SEPA must comply with the principles of better regulation.

SSF support data provision for the purposes of understanding and model development and are committed to continue to do so under a voluntary provision basis.

*11. Do you agree with our proposal for setting permit limits on the number of lice on a farm? If not, please explain why you disagree and what would be your alternative.*

See paragraph 'Sea lice management, controls and conditions'.

We disagree with this proposal for setting permit limits on the number of sea lice on a farm. It is unfair to expect a full response to this question when the methodology for counting sea lice is still to be determined with the FHI, this evidences another area in which this framework is not ready for implementation. The framework should not be implemented until all components have been completed.

There is no mention of how SEPA, a body whose representatives have stated they have not undertaken any assessment of farmed fish health and welfare impacts have the expertise to decide what an 'achievable standard of sea lice management' is. From experience supported by independent expert assessments the proposed levels of sea lice would not pose a risk to the wellbeing of farmed salmon yet would require treatments which could represent a risk. This breaches the basic human veterinary medical tenet of 'first do no harm'.

Introduction of sea lice limits will on some occasions present a scenario where compliance with the condition is impossible without contravention of a primary piece of legislation as fish health professionals and veterinarians are bound by law to act in the way that prevents unnecessary suffering of animals in their care. Although SEPA have stated they will take the reason for non-compliances into consideration, a non-compliance will still be written into record on a farm's environmental performance report. Any non-compliance implies a level of wrongdoing that is not occurring when an operator has followed primary legislation, this is shockingly misleading. SEPA have been advised of the commercial importance our farm's compliance records have with our customers and certification standards. To introduce a condition that is impossible to comply with is another example of failure of a statutory duty by the regulator. It is completely unacceptable for SEPA to act independently regarding the setting of sea lice limits.

For farms where the proposal is to have 'limits on the total number of adult female lice on the farm based on lice control performance proposed by applicant, subject to a maximum of 2 adult female lice per fish x maximum number of fish to be kept', then this maximum limit of 2.0 is already established by the FHI who require reporting when this limit is breached. This data is available for access in the public domain, if the intention of this framework is to streamline, then there is no further need to duplicate or require this information. SEPA, in accordance with their statutory duty to comply with better regulation principles, should be minimising additional reporting requirements for regulated businesses.

*12. Do you agree with our proposal for applying a rolling average limit, and a maximum daily limit on the number of adult female sea lice? If not, please explain why you disagree and what would your alternative.*

See paragraph 'Sea lice management, controls and conditions'.

We do not agree with the sea lice limits proposed. The consultation paper fails to provide clarity on exactly what SEPA are proposing regarding sea lice limits and their compliance.

The consultation paper states SEPA propose to vary permits to include the following permit conditions 'For all farms, monitoring and reporting conditions requiring the collection and submission of weekly sea lice counts between 16<sup>th</sup> March and 30<sup>th</sup> May'. However, in this chapter of the consultation the proposal seems to be for a maximum daily limit. If SEPA impose a maximum daily limit, it is assumed that for them to assess compliance with this limit, daily counts and reporting of sea lice would be required. SEPA also state that 'data for calculating the average must be collected and reported at least once every 7 days', this again implies SEPA may require more than one weekly report. Regarding how large peaks may pose a potential risk, SEPA state 'We will make clear that farm operators must take preventative action to avoid large peaks by including a maximum daily limit on the number of adult female sea lice when issuing permits'.

All these statements leave ambiguity around how SEPA intend to impose limits. If the intention is to set limits requiring more than one sea lice report a week this will lead to an unacceptable and disproportionate level of interaction with farmed fish given the uncertainty of harm caused by sea lice from farmed salmon to wild salmon.

Regarding compliance with the maximum daily limit SEPA state 'We are proposing to set the limit at a value equivalent to greater than 4 times the allowed 28-day average. Failing this limit would indicate wholly inadequate sea lice control on the farm. It would also lead to a failure of the 28-day rolling average limit'. If failure with the maximum daily limit automatically leads to a failure of the 28-day rolling average limit, then having the 28-day rolling average limit seems redundant with the maximum

daily limit being the only limit required to meet compliance against. Further, as proposed with a 28-day average of 0.2 sea lice this would result in a maximum daily limit of 0.8 and describing this limit as 'wholly inadequate' demonstrates how little is understood by SEPA about sea lice behaviour and parasite management.

As stated SEPA have left it unclear whether they are proposing daily, multiple counts each week, or weekly counts. Until now we have held the expectation that SEPA will require one weekly report from one counting incident, however this understanding is no longer clear from the consultation paper. SEPA must provide clarity on what limits they are proposing, what the proposed limits mean in practice, how they will be monitored, and how compliance will be assessed before this framework is implemented.

The above provides evidence where SEPA have failed to present a consultation that clearly explains the issue to enable an informed response. Please refer to our paragraph 'Consultation best practice'.

*13. Do you agree that it is proportionate to require enhanced sea lice counts at high-risk sites and that this should be delivered in due course via automated systems using artificial intelligence? Please give reasons for your answer.*

See paragraph 'Sea lice management, controls and conditions' and 'Consultation best practice'.

It is not possible to comment on requirements for enhanced sea lice counts as no detail of what this would mean in practice has been provided. Enhanced monitoring implies additional handling, which if true increases overall risk for farmed health and welfare and is something we have actively been working to reduce. It is unfair to conduct a consultation in this manner where so much detail is lacking for respondents to make a proper assessment of what is being proposed.

After SEPA have stated that they have not undertaken an assessment of how this framework may impact farmed fish health and welfare it is misleading and misguided to reference Norway's sea lice performance as achievable good practice. Insinuating that a level of 0.2 is achievable because the Norwegian sector is doing it, shows a complete lack of understanding and failure to investigate the complexities of how this is achieved and the impacts this has on farmed fish health and welfare e.g. the Norwegian sector have access to additional levels of sea lice management tools both in quantity and range of medicinal products – all permitted in compliance with the Water Framework Directive. Additionally, given that status of a population is managed at a river basin level to place a direct comparison with Norway in respect to sea lice controls is inappropriate, Scotland has an established presumption against placement of open pen fish farms across c.80% of the wild salmon population.

The proposal to include conditions requiring the use of automated lice counting technology is not reasonable. We strongly urge SEPA to deliver outcome-based conditions derived from the proposed technical steering group as referenced previously. Prescriptive conditions are inappropriate and contrary to the principles of better regulation. Furthermore, automated lice counting is not at present a viable option for the Scottish sector, this is evident given no salmon farming business in Scotland fully utilises it. Discussions to trial have only just begun and degrees of confidence must be validated before we introduce any new tool to farms. It is important to note that a similar approach is in operation in Norway where derogations are required for use of these systems in the absence of manual sea lice counting. The current methods of accurately counting sea lice numbers are well proven and provide more benefit than just counting sea lice as they enable wider monitoring of fish health and welfare such as the very important assessment of gill condition. Again, SEPA demonstrate their disregard for farmed fish health and welfare. The methods used for sea lice assessment on any individual farm should be a matter for farmers and their veterinary advisors and established in the farms Veterinary



Health and Welfare Plan in accordance with the CoGP, a document which is used by FHI in the implementation of their statutory duties.

*14. Do you agree with how we propose to provide a level of protection until the end of June for sea trout on the West Coast and around the Western Isles while we develop a new risk framework for sea trout? If you disagree, please explain how you would apply the matrix and why this would deliver a better outcome.*

No, see paragraph on sea trout.

*15. Do you agree with how we propose to set permit conditions to protect sea trout populations? If not, please explain why you disagree and what would be your alternative.*

No, see paragraph on sea trout.

*16. Do you have any comments or suggestions on how we plan to phase in the framework?*

See paragraph 'Chapter 2 – Stronger regulatory partnerships'. We would expect no unjustified delays to occur to applications currently in determination. No detail has been provided on how the handover of responsibility between SEPA and Planners will occur. This is another example of how this framework is incomplete and not ready for implementation.

If refined sea lice modelling is required for any application submitted within 4 months of the framework implementation date, this will cause significant delays as refined models are years away from being usable. This could considerably delay the implementation of planned projects that may have significant environmental benefit, such as consolidation applications. It is inappropriate for SEPA to apply this framework to all undetermined applications as operators made these development decisions without the knowledge that a new framework would impact them, this is unreasonable.

*17. Do you agree with the proposed timetable? If not, please explain why you disagree and what would be your alternative.*

We do not agree, see paragraph 'Proposed timetables', as already demonstrated this framework is not fit for purpose in its current state. It is not reasonable of the regulator to implement an incomplete framework.

If SEPA are to follow consultation practice, then the works such as 'development of legal text of permit template' and 'development of on-farm monitoring standards' cannot begin until this consultation has concluded. This leaves little time to complete these activities which will require sector engagement.

#### **Chapter 6 - Regulation of existing farms**

*18. Do you agree with our approach to monitoring and reporting conditions and the way we have used the risk assessment matrix to identify where we will add lice limits to permits? If you disagree, please explain how you would apply the matrix and why this would deliver a better outcome.*

See paragraph 'Sea lice management, controls and conditions'. It is unacceptable for any controls to be added to any farms unless that farm is evidenced to have significant environmental harm. It is inappropriate to require any farm that will not have a sea lice performance standard imposed to require any data relating to a non-existing performance standard. See our response to question 11. If this data is needed to support other actions, then this should be requested on a voluntary basis only. There is existing legislation requiring reporting, these reports are then publicly published on a weekly basis providing access to this information, there is no further need to duplicate or require this

information. Putting in conditions where there is no need to is an inappropriate use of regulatory power and contrary to better regulation principles.

*19. Do you have existing evidence that could be used to assist assessments of WSPZs where the lice exposure threshold is potentially being exceeded?*

No. Farm-level sea lice data has been published and in the public domain since 2018. This question evidences the incomplete nature of this framework, it is also concerning that the question is being posed given this is the second consultation in respect to the topic. Evidence should have been the basis on which justification was found to introduce a framework, it is unacceptable for this framework and consultation to be used as tools to gather evidence to justify why the framework is needed.

*20. Would you be interested in collaborating with us in carrying out the assessments required to determine if action is required to reduce infective-stage sea lice concentrations in those WSPZs in which screening suggests the sea lice exposure threshold may be exceeded? If so, how would you be willing to contribute?*

Scottish Sea Farms would be very open to collaborating with SEPA and partners, under the auspices of best scientific principles implemented through an expert-led, transparent and robust pilot study, on the basis those contributing partners share the same goal: to deliver an assessment tool that supports the sustainable growth of open pen salmon farming.

Government policy makes clear its support for the sector in Scotland, therefore any partner involved in the proposed collaboration must be like-minded in their support.

All voices have a right to be heard but at a relevant time and in a relevant way. Quite simply, there is no place for those opposed to open pen salmon farming in a study that, ultimately, is aimed at supporting the long-term sustainable growth of the sector.

*21. Do you agree with the proposed timetable? If not, please explain why you disagree and what would be your alternative?*

We do not agree with the proposed timetable see paragraph 'Proposed timetables'.

The following 2 statements from the consultation are incompatible:

'In developing the details of the framework, we have followed the Scottish Regulators' Strategic Code of Practice' (Section 1; Page 5)

'We expect it will take several production cycles before we have generated sufficiently robust evidence from refined models and monitoring to determine if and where action is required to reduce pressures on wild salmon populations from sea lice' (Section 6.5; Page 63)

We refer you to our response to question 9 and reiterate our recommendation that implementation of controls and the point of implementation is something that cannot solely be determined by SEPA, we recommend that a technical steering group is established which includes the FHI, APHA, the CVO Scotland's team, fish veterinarians, RSPCA etc., to establish the appropriate mechanism required to manage those sites which are evidenced as posing a high risk to wild salmon whilst considering the health and welfare of the farmed fish and impacts on the environment which may arise from the additional measures which may be required. SEPA are not the competent body regarding what an 'achievable standard of sea lice management is', it is essential that this work is carried out in collaboration with relevant experts from the above.

## **Chapter 7 - Compliance assessment**

*22. Do you agree with the way we are proposing to use the risk assessment matrix to identify where we should focus our regulatory effort. If you disagree, please give your reasons and describe what you would propose instead.*

We agree with the principles of better regulation which state that regulation should be proportionate and targeted only where needed. We do not agree with the proposed risk assessment matrix inclusion of regulatory effort being required for farm licences that do not contain a sea lice performance standard. Farms that do not contain a performance standard for sea lice limits should also not contain data and reporting performance standards for sea lice limits. We refer you to our response to question 10 regarding the existing legal obligation which the sector complies with in provision of this information. Duplication under licence is unacceptable, disproportionate and unnecessary. Compliance assessment and enforcement decisions pertaining to these aspects is reinforcement of poor regulatory practice.

Regarding SEPA issuing non-compliances for every instance where a sea lice count has not been provided demonstrates again SEPA's lack of understanding of salmon farming. There are several accepted reasons why a sea lice count cannot be conducted, such as storms, compromised fish, harvesting activities etc., SEPA have accepted in other sectors licenced by them aspects which occur at a site which can result in a non-compliance with a licence condition and have incorporated the provision for this in these instances when assessing actual compliance, understanding that instances do arise where certain conditions cannot be met – the same approach which other sectors experience should be adopted in respect to this matter. Additionally, as is currently proposed in this framework to be in a position where a farm with no permit condition for sea lice limits can receive a non-compliance for not supplying a sea lice count is appalling.

We also reiterate that we do not agree with any of the proposals relating to sea lice management, controls, or conditions – which includes compliance related decisions. This is something that cannot solely be determined by SEPA, we recommend as stated previously in our response that a technical steering group is established which includes the FHI, APHA, the CVO Scotland's team, fish veterinarians, RSPCA etc., to establish the appropriate mechanism required to manage those sites which are evidenced as posing a high risk to wild salmon whilst considering the health and welfare of the farmed fish and impacts on the environment which may arise from the additional measures which may be required. SEPA are not the competent body regarding what an 'achievable standard of sea lice management is', it is essential that this work is carried out in collaboration with relevant experts from the above.

*23. Do you agree with the proposed timetable? If not, please explain why you disagree and what would be your alternative.*

We do not agree. Please refer to previous statements in our response to question 13 regarding inappropriate requirements for automated data reporting, our response to question 22 above and the paragraph 'Proposed timetables'. We request SEPA undertake an assessment in conjunction with FHI, APHA and CVO Scotland's team of how sea lice counts are conducted by farmers before determining compliance for conditions for activities they do not understand.

## **Chapter 8 - Environmental monitoring**

*24. Do you agree with how we propose to prioritise where we target effort under the first environmental monitoring strategy for the framework? If not, please explain your reasons and what you think we should do instead.*

We do not agree. The environmental monitoring to develop, calibrate and validate refined models should be completed before the framework is implemented. It is difficult to understand how SEPA propose to implement a framework which they continually demonstrate is incomplete.

*25. Do you think the focus of the monitoring strategy should be on the types of monitoring listed above? If not, please explain your reasons and what you propose instead or in addition.*

No. The monitoring proposed is focused more on building models and reviewing existing information rather than collecting new data to validate assumptions and provide real-time evidence of impacts and assessments of whether the framework is achieving its aims. Sea lice infestation pressure monitoring and trends in wild salmon should be conducted first given this is what the framework is aiming to provide. Such an assessment should also be conducted in Scotland where no finfish farming activity is present to identify a realistic baseline reference for wild salmon. The model assumes that a certain level of sea lice on a farm will result in a certain concentration of sea lice larvae in the environment, however no monitoring is suggested to test the robustness of this link. There do not seem to be any plans to monitor sea lice numbers on wild fish outside of aquaculture areas to act as a control group enabling comparison between background impact and perceived farm impact. There is an absolute need to calibrate and validate the model with empirical data a formal plan to address this seems to be lacking, but this should all have been in place before the implementation of the framework. The assumptions being made are also naïve and concerning - what wider assessments are being done on the numerous other pressures acting on wild fish?

It is essential that monitoring projects are collated into a dedicated programme, conducted in the correct order and designed purely for completing the framework, not for ad-hoc partnerships fitted in to achieve other priorities or take advantage of potential funding.

*26. Do you think that the proposed collaborative approach is the best mechanism for developing and delivering a monitoring plan? If not, please give your reasons and describe what you would propose instead.*

Aligned with our response to question 20 we are supportive of collaborative approaches to develop and deliver the best available outcomes.

We agree that a robust monitoring programme should be developed to assess and address the uncertainties – however, this requires new thinking and approaches. To date, multiple public funded studies over decades have been undertaken and have not resulted in any increased certainty, as has extensive collaboration and multi-stakeholder meetings none of which have generated any long-term coherent monitoring regarding wild salmon. It is clearly necessary that a lead be taken, and for this to be adequately prioritised. Separation of one aspect of wild salmon monitoring from a cohesive multi-sector/multi-factor monitoring programme which Scottish Government's Wild Salmon Strategy has the potential to deliver may prevent a repetition of previous failed programmes.

More importantly, given that SEPA have acknowledged that they do not believe sea lice from farmed fish are responsible for the declines in wild fish why is this action being targeted/required of salmon farming only, despite published acknowledgement of several pressures on wild salmon. Additionally, this framework demonstrates a completely disproportionate focus on a relatively small proportion of



Scotland's wild salmon populations unlikely to have an overall significant population scale impact and leaving wild salmon vulnerable to unaddressed factors. It is completely inappropriate to expect the fish farming sector to monitor the health of wild salmon stocks in isolation from a holistic Team Scotland approach.

We would suggest that if SEPA wish others to be involved in a meaningful way, then monitoring at a waterbody level should occur between all regulated activities posing a hazard. Piloting such a waterbody level monitoring approach would provide (and expedite) a meaningful lesson learned monitoring programme to support better understanding of wild salmon across its range, not solely within the WSPZs.

*27. Are there other bodies and organisations you think would be interested assisting with a collaborative approach to environmental monitoring? If so, please can you say who they are and how you think they could contribute.*

Scottish Sea Farms would be very open to collaborating with SEPA and partners, under the auspices of best scientific principles implemented through an expert-led, transparent and robust pilot study, on the basis those contributing partners share the same goal: to deliver a monitoring programme that supports our understanding of wild salmon and the sustainable growth of open pen salmon farming.

Government policy makes clear its support for the sector in Scotland, therefore any partner involved in the proposed collaboration must be like-minded in their support.

As discussed in answer to question 26 we believe that a waterbody level monitoring programme inclusive of all contributors to the pressures upon wild salmon would be a practical and meaningful approach to take and that piloting this ahead of a full WPSZ monitoring programme would be recommended. Such a pilot could align with that proposed for the development of a refined model, thereby complimenting and maximising the value of all investment.

We reiterate our view that all voices have a right to be heard but at a relevant time and in a relevant way. Quite simply, there is no place for those opposed to open pen salmon farming in developing a monitoring programme that, ultimately, is aimed at supporting the long-term sustainable growth of the sector.

*28. Do you agree with the proposed timetable? If not, please explain why you disagree and what would be your alternative.*

We do not agree with the proposed timetable, see paragraph 'Proposed timetables'. SEPA state environmental monitoring is needed to support implementation of the framework therefore the framework should not be implemented until this environmental monitoring has occurred.

We refer to our answers to questions 24 to 27 inclusive.

### **Chapter 9 - Making data available**

*29. Do you agree with the proposed timetable for improving accessibility of information collected in implementing the framework? If not, please explain why you disagree and what would be your alternative.*

Please see paragraph 'Proposed timetables'.

The farmed salmon sector provides more data relating to its farming than any other food production sector (including many other non-food production sectors) in the UK and we support transparent, consistent and proportionate provision of data.

Additionally, we have expressed our concerns relating to the presentation of data via the current aquaculture website platform.

Scottish Sea Farms would be very open to collaborating with SEPA and partners to support delivery of an improved platform.

### **Chapter 10 - Analysis of implications**

The section is remarkably naïve and unrealistic in its content.

We would recommend that SEPA undertake a Business Regulatory Impact Assessment in accordance with best practices to accurately understand the implications of this framework before progressing any further. We have expressed throughout our response that we feel SEPA have failed to discharge its duties in relation to regarding the impacts on farmed fish health and welfare. This is demonstrated again in this section as the analysis contains no assessment of implications on fish health and welfare.

As previously mentioned SEPA have stated they have no remit for farmed fish health and welfare, however The Scottish Regulators Strategic Code of Practice is a statutory document which SEPA are required to follow and includes the following statement 'Regulators should demonstrate that they understand the sector they regulate' (Section 8). It is therefore reasonable to expect SEPA, to understand how good, farmed fish health and welfare compliments the environment.

In respect to section 10.5 (comparison with Norway's regulatory framework) as stated in our response to question 13 there are many factors which differ between Scotland and Norway in respect to the farmed/wild salmon interactions and the regulations and controls in place. It is extremely disappointing to note that a select comparison has been made between the two countries regulatory frameworks in this section and one which is disingenuous as a result.

SEPA acknowledge that this consultation has the potential to impose major costs on operators. We wholeheartedly agree with this statement, yet currently it is impossible for us to determine the exact cost as detail is lacking in all cost-attributable elements of this framework. We anticipate, as a minimum, the following to result from the implementation of this framework as proposed reduced farmed fish survival because of unnecessary treatments; anticipated delays to application and uncertainty in farm consolidation, expansions or new farm developments; increased environmental monitoring; costs associated with development of refined models; and substantial uncertainty in predicting investment options from indicative results of an interim screening approach.

In SEPA's analysis of implications no detail has been provided to explain how SEPA have determined the scale of each impact, this approach lacks transparency or the ability for respondents to understand how SEPA have drawn their conclusions.